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FISCAL IMPACT REPORT

SPONSOR Gutierrez DATE TYPED 02/11/05 HB 848

SHORT TITLE Repeal Imitation Honey Act SB _____

ANALYST Woods

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Department of Agriculture (NMDA)

SUMMARY

Synopsis of Bill

House Bill 848 – Relating to Agriculture; Repealing the Imitation Honey Act – BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO: Section 1. REPEAL.--Sections 25-9-1 through 25-9-5 NMSA 1978 (being Laws 1977, Chapter 243, Sections 1 through 5) are repealed. There is no appropriation attached to this bill.

Significant Issues:

NMDA indicates that state law is in conflict with federal law, as follows:

The New Mexico Imitation Honey Act, NMSA 1978 Sections 25-9-1 through 25-9-5 NMSA 1978 (1977), regulates the labeling and sale of honey in New Mexico. It expressly provides:

“It is unlawful for any person to package any product and label the product as honey or imitation honey or to use the word honey in any prominent location on

the label of such product or to advertise, sell or offer for sale any product which is labeled honey or imitation honey or which contains a label with the word honey prominently displayed thereon, unless such product is pure honey produced by honeybees.”

The federal Food, Drug and Cosmetic Act, 21 U.S.C. § 301et seq., provides:

“A food shall be deemed to be misbranded...[i]f it is an imitation of another food, unless its label bears, typed of uniform size and prominence, the word imitation and, immediately thereafter, the name of the food imitated. 21 U.S.C. § 343 (c).”

This bill seeks to resolve the conflicting language.

FISCAL IMPLICATIONS

There is no appropriation attached to this bill.

OTHER SUBSTANTIVE ISSUES

NMDA notes that the New Mexico State University General Counsel, outside expert counsel, and the New Mexico Attorney General’s Office agree these laws are in direct conflict and that federal law preempts state law in this instance.

NMDA further observes that support and concurrence for this action has been received from the New Mexico Beekeepers Association.

BFW/lg